

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MELISSA B.,

Plaintiff,

v.

Civil Action No. 2:22-cv-00536

KILOLO KIJAKAZI,
*Acting Commissioner of
Social Security,*

Defendant.

MEMORANDUM OPINION AND ORDER

On November 23, 2022, plaintiff Melissa B. instituted this action seeking judicial review of the Acting Commissioner's final decision pursuant to 42 U.S.C. § 405(g). Pending before the court is plaintiff's complaint (ECF No. 2), which was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). The magistrate judge filed his PF&R on May 4, 2023 (ECF No. 13), to which no party filed objections.

In his PF&R, the magistrate judge found that the Commissioner's decision was supported by substantial evidence and recommended that this court: deny the plaintiff's request that this matter be remanded to the Commissioner; grant the

defendant's request that the Commissioner's decision be affirmed; affirm the final decision of the Commissioner; and dismiss this civil action from the court's docket. See PF&R at 45-46.

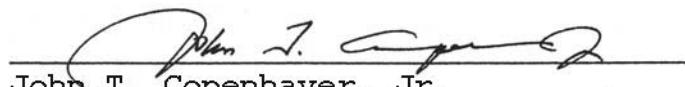
The court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings and recommendations to which no objection has been addressed. See Thomas v. Arn, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b) (1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") (emphasis added). Failure to timely file objections constitutes a waiver of de novo review and the plaintiff's right to appeal the order of the court. See 28 U.S.C. § 636(b) (1); see also United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (parties typically may not "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989). Objections in this case having been due on May 18, 2023, and none having been filed, this matter may be duly adjudicated.

Accordingly, it is ORDERED that:

1. The findings made in the magistrate judge's Proposed Findings and Recommendation be, and hereby are, adopted by the court and incorporated herein;
2. The plaintiff's request for remand to the Commissioner be, and hereby is, denied;
3. The defendant's request for affirmance of the decision of the Commissioner be, and hereby is, granted;
4. The final decision of the Commissioner be, and hereby is, affirmed; and
5. This civil action be, and hereby is, dismissed from the docket of this court.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record, any unrepresented parties, and the United States Magistrate Judge.

ENTER: May 23, 2023



John T. Copenhaver, Jr.
Senior United States District Judge